

House File 863 - Introduced

HOUSE FILE _____
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO HF 68)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act regulating certain political telephone communications,
2 applying a penalty, and providing an effective date.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1756HV 82
5 jr/es/88

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1 1 Section 1. NEW SECTION. 68A.407 PERSUASION POLLING AND
1 2 POLITICAL TELEPHONE SOLICITATION.
1 3 1. The general assembly finds that political telephone
1 4 communication is increasingly used in political campaigns in
1 5 this state in a deceitful manner, including but not limited to
1 6 the use of persuasion polling, which jeopardizes the integrity
1 7 of the electoral process and perpetuates a fraud on the
1 8 citizenry by masking persuasive telemarketing techniques in a
1 9 shroud of scientific sincerity.
1 10 The purpose of a legitimate poll or survey is to obtain
1 11 opinions; the goal of a persuasion poll is to influence the
1 12 voter's choice through innuendo or false or misleading
1 13 information about a candidate, the candidate's family, or the
1 14 candidate's position on issues. The general assembly declares
1 15 that persuasion polling is an appropriate subject for state
1 16 regulation in the same manner as written and broadcast
1 17 political advertisements are an appropriate subject for state
1 18 regulation. It is not the intent of the general assembly to
1 19 adversely impact legitimate scientific polling and surveying
1 20 or to infringe on the rights of candidates and others to
1 21 engage in robust, unfettered political speech.
1 22 2. As used in this section:
1 23 a. "Basic preference question" means a question that
1 24 provides a respondent with a nondescriptive list of
1 25 candidates' names and asks which candidate the respondent
1 26 supports in a particular election.
1 27 b. (1) "Persuasion poll" means a telephone survey
1 28 conducted by a pollster or polling organization, or series of
1 29 telephone surveys that are similar in nature, designed to
1 30 include or actually including more than one thousand calls,
1 31 that reference a candidate or group of candidates other than
1 32 in a basic preference question, and to which any one or more
1 33 of the following applies:
1 34 (a) A list or directory is used, exclusively or in part,
1 35 to select respondents belonging to a particular subset or
2 1 combination of subsets of the population, based on demographic
2 2 or political characteristics including but not limited to
2 3 race, sex, age, religion, ethnicity, or party affiliation.
2 4 (b) The telephone survey takes less than three minutes to
2 5 complete, excluding any sponsorship identification.
2 6 (c) The telephone survey does not make demographic
2 7 inquiries on factors such as age, household income, or status
2 8 as a likely voter, sufficient to allow for the tabulation of
2 9 results based on relevant subsets of the population consistent
2 10 with standard industry practice.
2 11 (d) The individual or organization conducting the
2 12 telephone survey does not collect or tabulate survey results.
2 13 (2) "Persuasion poll" does not include a telephone survey
2 14 supporting a particular candidate that does not reference
2 15 another candidate or candidates, other than in a basic
2 16 preference question.
2 17 c. "Political telephone solicitation" means a telephone
2 18 call to a residence, other than through a poll or survey,

2 19 supporting or opposing a candidate, elected official,
2 20 political party, or political organization. "Political
2 21 telephone solicitation" includes a solicitation made by an
2 22 automated dialing device providing a recorded message.
2 23 However, "political telephone solicitation" does not include a
2 24 solicitation personally made by a candidate relating to the
2 25 candidate's own election.
2 26 3. A person shall not authorize, commission, conduct, or
2 27 administer a persuasion poll or political telephone
2 28 solicitation by telephone or telephonic device unless, during
2 29 each call, the caller complies with all of the following:
2 30 a. The caller identifies all persons sponsoring or
2 31 authorizing the call by stating: "This is a paid political
2 32 advertisement by (name of persons)".
2 33 b. If a person identified as either sponsoring or
2 34 authorizing the call is not required to file any documents
2 35 with the board pursuant to this chapter, the person shall
3 1 disclose a valid, current, publicly listed telephone number
3 2 and address for the person or the person's organization.
3 3 c. If a person identified as either sponsoring or
3 4 authorizing the call is affiliated with a candidate, the
3 5 person shall disclose the candidate's name and the office
3 6 sought by the candidate.
3 7 d. If the call is an independent expenditure, the caller
3 8 shall state that no candidate has approved the call.
3 9 4. A person shall not state or imply false or fictitious
3 10 names or telephone numbers when providing the disclosures
3 11 under this section.
3 12 5. All oral disclosures required by this section shall be
3 13 made in a clear and intelligible manner within five seconds of
3 14 the conclusion of the call, and shall be repeated in such
3 15 manner at the request of the call recipient. Disclosures made
3 16 by any telephonic device must offer respondents a procedure to
3 17 have the disclosures repeated.
3 18 6. This section does not apply to a persuasion poll or
3 19 political telephone solicitation if the individuals
3 20 participating in the call are known to each other prior to the
3 21 call.
3 22 7. a. A person who conducts a persuasion poll or
3 23 political telephone solicitation, prior to conducting such
3 24 poll or solicitation, shall have and continuously maintain for
3 25 at least one hundred eighty days following the cessation of
3 26 business activities in this state, a registered agent for the
3 27 purpose of service of process, notice, or demand required or
3 28 permitted by law, and shall file with the board notice of such
3 29 registered agent, including the name, address, and telephone
3 30 number of the registered agent. The registered agent must be
3 31 an individual resident of this state, a domestic corporation,
3 32 or a foreign corporation authorized to do business in this
3 33 state.
3 34 b. Any changes in information provided to the board under
3 35 paragraph "a" shall be reported to the board immediately.
4 1 c. For purposes of this subsection, conducting a
4 2 persuasion poll or political telephone solicitation in this
4 3 state includes placing calls from a location in this state or
4 4 placing calls from outside this state to individuals located
4 5 within this state.
4 6 d. This subsection does not apply to a person already
4 7 lawfully registered to conduct business in this state.
4 8 8. The board shall adopt rules and create forms as
4 9 necessary to administer this section.
4 10 9. If the board determines that a violation has occurred,
4 11 the board may impose any of the remedies or penalties under
4 12 section 68B.32D.
4 13 10. The requirements of this section do not apply to the
4 14 following:
4 15 a. A legitimate poll conducted by a polling firm which has
4 16 registered with the board as a polling firm. A polling firm
4 17 must register with the board prior to conducting any poll. A
4 18 registration shall be valid for one hundred eighty days.
4 19 b. A telephone communication that is made to fewer than
4 20 one thousand persons, if the average time of each
4 21 communication is more than three minutes.
4 22 c. A telephone communication that is made with the written
4 23 approval of the candidate.
4 24 d. A telephone communication by a volunteer or the
4 25 candidate to the individual who is personally known to the
4 26 volunteer or the candidate.
4 27 Sec. 2. EFFECTIVE DATE. This Act, being deemed of
4 28 immediate importance, takes effect upon enactment.
4 29

EXPLANATION

4 30 This bill creates a new provision as part of Iowa's
4 31 campaign disclosure law. The bill regulates the use of
4 32 persuasion polling and political telephone solicitations by
4 33 requiring certain disclosures relating to the person who is
4 34 responsible for the poll or solicitation; both terms are
4 35 defined in the bill. A persuasion poll is an attempt to
5 1 influence the listener to either support or oppose a
5 2 candidate, under the guise of conducting a legitimate opinion
5 3 poll. A political telephone solicitation is a telephone
5 4 communication either supporting or opposing a candidate,
5 5 elected official, political party or organization.
5 6 The bill requires a person conducting a persuasion poll or
5 7 a political telephone solicitation to identify all persons
5 8 sponsoring or authorizing the call, along with an address and
5 9 telephone number and state whether a candidate has authorized
5 10 the call. The person conducting a persuasion poll or a
5 11 political telephone solicitation must also have a registered
5 12 agent within the state, for the purpose of service of process,
5 13 at the time the persuasion poll or political telephone
5 14 solicitation is conducted, and for the subsequent 180 days.
5 15 Violations of the bill are punishable by the ethics and
5 16 campaign disclosure board, including public reprimand, cease
5 17 and desist orders, and civil penalty, under Code section
5 18 68B.32D. Willful violation of the bill is punishable as a
5 19 serious misdemeanor under Code section 68A.701.
5 20 The bill is effective upon enactment.
5 21 LSB 1756HV 82
5 22 jr:rj/es/88.1